

# Texas Workforce Commission

Member of the Texas Workforce Network

October 11, 2005

The Honorable Elaine L. Chao  
Secretary  
United States Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210-0002

Diane D. Rath, Chair  
Commissioner Representing  
the Public

Ron Lehman  
Commissioner Representing  
Employers

Ronald G. Congleton  
Commissioner Representing  
Labor

Larry E. Temple  
Executive Director

Dear Secretary Chao:

As you know, Texas is impacted by the extremely large influx of evacuees from the states directly impacted by Hurricane Katrina. All local workforce development areas in Texas have been affected, either directly by the number of evacuees they are serving, or indirectly by the resources they are providing to the areas with larger numbers of evacuees. Local Workforce Development Boards have modified their service delivery strategies to respond to the needs of evacuees, while continuing to meet the needs of employers and Texas residents.


Hurricane Rita has brought similar devastation to our state. Because of these two natural disasters, we have an urgent need for increased flexibility to design and deliver workforce services for our employers and residents, including evacuees. Accordingly, we are requesting waivers of the following Workforce Investment Act (WIA) requirements:

- Waiver of the language that limits the authority to provide the activities identified in WIA section 134 to the state. Texas has received a waiver and a subsequent waiver modification related to this requirement. In August 2003, the Department of Labor (DOL) waived the provisions of WIA sections 129 and 134. This waiver established a 10 percent cap on the amount of each Board's Adult, Dislocated Worker, and Youth formula funds that could be designated for the purpose of Local Activity Funds. A new waiver was approved on July 26, 2005 to establish a new cap of 25 percent. Texas is now requesting removal of the 25 percent cap to permit local areas to request the use of up to 100 percent of local area formula-allocated funds to provide statewide employment and training activities.
- Waiver of the reallocation provisions at WIA section 128(c)(2) and 133(c)(2), and 20 C.F.R. 667.160 (regarding reallocation procedures), to permit the state to develop more flexible recapture policies.
- Waiver of the required 50 percent employer reimbursement for on-the-job training at WIA section 101(31)(B), to allow a sliding scale employer match ranging from 10 to 50 percent.
- Waiver of WIA Section 181(e), which limits on use of funds for capitalization of businesses, to permit WIA funds to be used to capitalize a small business in areas of Texas directly impacted by Hurricane Rita (i.e., counties declared national disaster areas). Funds would be used to capitalize affected small businesses up to \$5,000 and provide entrepreneurial and microenterprise training.
- Waiver of the requirement that local programs provide each of the ten youth program elements at WIA section 129(c)(2) as options available to youth participants. Such a waiver will allow local areas to focus on the youth services most needed.
- Waiver of WIA Section 129 and 20 C.F.R. 664.510 to permit the use of Individual Training Accounts (ITAs) for youth.

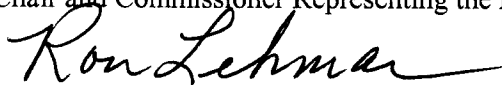
- Waiver of WIA section 129(c)(2)(I) and 20 C.F.R. 664.450(b) that requires all youth participants to receive some form of follow-up services for a minimum duration of 12 months. In anticipation of the transitive nature of youth participants displaced by the hurricanes, many youth may receive services in temporary locations and return back to their homes or move to new locations and such youth could be included for a waiver of the 12 month minimum.

We are submitting these requests per the requirements for submission of a waiver plan under WIA section 189(i)(4) and 20 C.F.R. 661.420. As required by 20 C.F.R. 661.420(c)(2), we have determined that there are no state and local statutory barriers. The waiver plan will allow the state to immediately address the workforce challenges facing the state. The precise programmatic and performance outcomes will be negotiated with the ETA Regional Office within the next three months. The state will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports submitted by local boards, through regularly scheduled calls or meetings with local board directors, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system. We have posted the waivers on our Web site for review and comment, and have consulted local boards and other stakeholders. We appreciate your consideration of these requests and seek an expedited response so that we may move forward in our efforts.

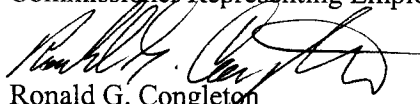
Sincerely,

  
Diane Rath

Chair and Commissioner Representing the Public

  
Ron Lehman

Commissioner Representing Employers

  
Ronald G. Congleton  
Commissioner Representing Labor

cc: Emily Stover DeRocco, Assistant Secretary, DOL  
Christine D. Kulick, Federal Coordinator, DOL  
Larry E. Temple, Executive Director, TWC

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